

REMARKS

Claims 1-48 are pending with claims 7-48 being withdrawn by the Examiner on the basis of a restriction requirement. Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

35 U.S.C. § 102 Rejection

Claims 1-4 and 6 were rejected under 35 U.S.C. § 102(e) for being allegedly anticipated by U.S. Patent No. 6,358,813 to HOLMES et al. This rejection is respectfully traversed.

In order to establish a *prima facie* case of anticipation under 35 U.S.C. § 102, a single prior art reference must disclose each and every element as set forth in the subject claim. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully submits that a *prima facie* case of anticipation cannot be established because HOLMES fails to teach each and every element of the claims.

More particularly, independent claim 1 recites, *inter alia*,

selectively etching the insulator layer through the sub lithographic template mask to form sub lithographic features spanning to a sidewall of the at least one interconnect.

Applicant submits that HOLMES does not disclose or even suggest at least these features.

As a preliminary matter, Applicants note that HOLMES qualifies as prior art under 35 U.S.C. § 102(b) and is not prior art under 35 U.S.C. § 102(e).

With regard to claim 1, Applicants acknowledge that e.g., Figs. 4 and 5 of HOLMES discloses a wiring structure which has a mask layer 8 and a conductive fill 7. However, the Examiner should note that layer 9 in Figs. 4 and 5 is merely an etched pattern of layer 8. Furthermore, while it is apparent from Fig. 5 that the layer 8 has openings which allow etching of material underneath, the material etched in HOLMES is the conductive fill 7 and not an underlying insulator layer.

Applicants emphasize that whereas the invention provides for selectively etching the insulator layer through the sub lithographic template mask to form sub lithographic features spanning to a sidewall of the at least one interconnect, HOLMES specifically discloses at col. 3, lines 11-13 that "the pattern only etches into the electrode material 7 and has no effect upon the surrounding silicon oxide layer 2a" (emphasis added).

Thus, Applicant respectfully submits that independent claim 1, and claims 2-4 and 6, which depend from claim 1 are allowable.

Accordingly, Applicant respectfully requests that the above-noted rejection under 35 U.S.C. § 102(b) should be withdrawn.

35 U.S.C. § 103 Rejections

Claim 5 was rejected under 35 U.S.C. § 103(a) for being allegedly unpatentable over HOLMES alone. This rejection is respectfully traversed.

The Examiner acknowledges that HOLMES fails to disclose, among other things, the features recited in the above-noted dependent claim. However, the Examiner explains that such features are acknowledged in Applicants' specification as being

known and that it would have been obvious to combine the teachings of these documents. Applicants respectfully submits that a *prima facie* case of obviousness has not been established as the applied reference fail to teach each and every element of the claims.

As explained above, whereas the invention provides for selectively etching the insulator layer through the sub lithographic template mask to form sub lithographic features spanning to a sidewall of the at least one interconnect, HOLMES specifically discloses at col. 3, lines 11-13 that "the pattern only etches into the electrode material 7 and has no effect upon the surrounding silicon oxide layer 2a" (emphasis added). Furthermore, the Examiner has failed to explain why or how one could properly characterize the etching of a conductor via a mask layer as the selectively etching the insulator layer through the sub lithographic template mask to form sub lithographic features spanning to a sidewall of the at least one interconnect.

Accordingly, Applicants submit that no proper modification of HOLMES discloses or suggests the combination of features recited in at least claim 1.

Moreover, in addition to failing to disclose the combination of features recited in the above-noted claim 1, Applicants submit no proper modification of this document discloses or suggests the combination of features recited in dependent claim 4, which also respectfully contains all of the features of claim 1.

Accordingly, Applicant respectfully submits that the above-noted rejection under 35 U.S.C. § 103(a) should be withdrawn.

Request for Rejoinder of Non-Elected Claims

Applicants submit that rejoinder of withdrawn claims 7-48 is now proper. At the very least, claims 7-35 should be rejoined because these claims depend from claim 1 which is believed to be allowable. Applicants refer the Examiner to MPEP 821.04 which indicates that withdrawn claims which depend from or otherwise include all the limitations of the allowable claims will be rejoined if presented prior to allowance and issuance of a final rejection. Accordingly, Applicants request that the Examiner rejoin all the withdrawn claims directed to the non-elected invention and consider the merits of the same.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Any fees required for consideration of the instant response are hereby authorized to be charged to our Deposit Account No. 09-0458.

Respectfully submitted,
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October 26, 2006
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